



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/791,134

03/02/2004

Adam Fairbanks

3367.2.1

5394

28049

7590

11/25/2008

PATE PIERCE & BAIRD

175 SOUTH MAIN STREET, SUITE 1250

SALT LAKE CITY, UT 84111

EXAMINER

LE, KHANH H

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

11/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/791,134 | Applicant(s) FAIRBANKS ET AL. | |
| | Examiner KHANH H. LE | Art Unit 3688 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/08/2008 and 06/09/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the supplemental response filed 09/08/2008 and the response filed 06/09/08. Claims 1-24 were and remain pending. Claims 1(apparatus) , 13 (apparatus), 17 (article of manufacture) and 20 (method) are independent. Claims 1, 13, 17 and 20 are amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-16, 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu US 7050990 in view of Mathai US 6847969 B1, Baidya US 20030046311 A1, and Official Notice.**

Claims 1-4, 8, 9, 13, 15-16, 20-22:

Chu discloses:

A system and method for collecting, calendaring, and presenting event data from independent sources, and system and apparatus to support such method, the method comprising: providing to an advertiser access to a bidding module programmed to present a set of bid criteria selectable and ordered by an advertiser (Figure 33 and associated text) to place the advertising content on a computer of a user (Figure 1 items 140, 142 and associated text) during a time window and geographical area substantially arbitrarily specified by the advertiser (Figure 1 item 108, Figure 33 and associated text; col. 52 lines 17-27) to the bidding module;

Art Unit: 3688

inputting data corresponding to a plurality of events (Figure 1 item 106 and associated text: listing attributes read on events; Figure 11 and associated text);

creating by a system administrator a database (Figure 1 item 126 and associated text) containing the data to be searched, sorted, and filtered arbitrarily by a user using a corresponding database engine (Figure 1 items 118, 122, 120, 126, 142, 144 and associated text);

providing, via one or more servers (Figure 1 item 118; col. 16 lines 13-25) a user interface comprising navigational software presenting to a user a selection module to arbitrarily select and order, by a user, a set of ordered data from the data according to criteria selected and arbitrarily ordered by a user;

providing a simultaneous presentation to a user of both advertising content (see e.g. Figures 25a-26b with ads on the right of ordered listings) and the ordered data reflecting the data as selected and ordered by a user, including comparative listings (see e.g. Figures 25a-26b ordered listings; see e.g. Figures 28a-28b ordered listings with compare button);

receiving from the advertiser, via an advertiser interface (Figure 1 item 116 and associated text), a bid for displaying the advertising content corresponding to an advertisement (Figures 2 and 33 and associated text);

comparing the bid to other bids according to comparison criteria selected by the system administrator (Figure 2 and associated text);

and presenting to a user in the geographical area (including an “economically significant boundary independent of political boundaries”, see col. 13 lines 26-30) specified by the advertiser (e.g. Figure 33 and associated text) and through the user interface (Figure 1 item 142 and associated text), an advertisement corresponding to the advertising content in conjunction with the ordered data (see e.g. Figures 25a-26b with ads on the right of ordered listings).

Chu does not specifically disclose calendaring or list of events data returned to a user/requester.

However Mathai US 6847969 B1 discloses a vertical market place for events buying and selling. Mathai discloses method and system for providing personalized online services and advertisements in public spaces including online local events searching and online ticketing (abstract; col. 14 lines 28-44; col. 14 line to col. 15 line 28: event searching by category and date; navigation interface to buy tickets); database of events and related data (i.e. calendaring data) is implied; database of ads and consumer profiles (Fig 3); ad targeting in real time based on the consumer demographics, learned behavior, time and location (e.g. Figure 2 and associated text) . Since Mathai teaches the event data is used for information and tickets buying, it is implicit that event or calendaring information would be presented in a normalized or standardized form to provide data presentation consistency so to allow consumers to easily use the data.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made (herein a “PHOSITA”) to substitute to any requested data by a Chu user, events or calendaring data as taught by Mathai to allow the consumer user to search and obtain events data as taught by Mathai.

It would have been obvious to a PHOSITA to substitute or add Mathai’s lists of events, or calendaring data as taught by Mathai to the lists of returned data taught by Chu if lists of events or calendaring data are desired. In that case the Chu/Mathai system administrator would be called the calendar provider as claimed.

Chu and Mathai do not disclose the details of an apparatus for data mining and harvesting events and events-related data to create a searchable database thereof.

However Baidya US 20030046311 A1 discloses dynamic search engine and database, harvester and human harvester to create database of categorized (classified) and subcategorized data by scanning web pages and extracting different types of data therefrom, using specific keywords (e.g. paragraphs [0055], [0064]). Human harvesters (editors) are also used (e.g. paragraph [0055]).

Specifically Baidya teaches a database creation technique:

“An industry database and method of creating same is provided. The database is created in accordance with a process that includes: identifying a plurality of web sites meeting at least one search criteria; automatically extracting URL addresses for each of the plurality of web sites; automatically categorizing each of the web sites and their corresponding URL addresses in accordance with a predefined category structure; and automatically indexing and storing each of the URL addresses in accordance with the predefined category structure in the database.... (abstract).

Baidya also teaches that the database data is searchable by users:

“... A method of using a database system is also provided. The method includes: storing in a database, information extracted from a plurality of web sites, wherein the information is automatically categorized and indexed in accordance with a predefined category structure and includes a plurality of URL addresses corresponding to the plurality of web sites; receiving a user query; executing a search engine in response to the user query that searches a subset of the stored information extracted from a subset of the plurality of web sites, and subsequently searching said subset of web sites to find additional information responsive to said user query.” (abstract) . See also [0044].

Art Unit: 3688

That is Baidya teaches (excerpt and citations above), as claimed:

An apparatus for collecting and serving data, the apparatus comprising:

a data server, comprising a mining module and a harvesting module (e.g. paragraphs [0055], [0064]);

the mining module programmed to search online publications (independent from the data server), identify at least one online publication containing some specific type of information and provide to the harvesting module a list of the at least one online publication (e.g. paragraphs [0055], [0064]);

the harvesting module programmed to store the list and provide a user interface through which a human harvester inputs into a database data reflective of additional information corresponding to the harvested data (e.g. paragraphs [0055], [0064]);

the harvesting module further comprising a classification function effective to detect and determine additional information for the plurality of harvested data and to effect a classification thereof for inclusion in the database data as additional information searchable by a user (e.g. paragraphs [0055], [0064], abstract);

a database with database engine and data store (abstract).

Thus it would have been obvious to a PHOSITA to substitute into the harvested data and their related additional data taught by BAIDYA, events and events related data, such as calendar data that represent the event date and other event information, and to add such modified BAIDYA system into the Chu and Mathai system to allow creation of an events and calendaring data searchable database to be used by a user of the Chu and Mathai system. It would have been further obvious to a PHOSITA that in such a combined system the sources from which event data are harvested from are event sponsors. It would also have been obvious to a PHOSITA to

Art Unit: 3688

include the database creation technique as taught by BAIDYA in the Chu and Mathai system since the claimed invention is merely a combination of old elements (the elements being a harvesting, data mining, data base creation apparatus; an advertiser bidding apparatus; and a presentation of event search results and advertising apparatus), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Neither Chu, Mathai nor BAIDYA specifically discloses advertisers specifying a campaign period or arbitrary time window to start and end delivery of the ads or that presentation of the search results and the ads is made during the time periods selected by the advertiser.

(However, Chu discloses many attributes of the listings advertisers can specify (see (Figure 33 and associated text) . Arguably Chu suggests timing as an attribute relevant for advertisers to specify since at col. 40 lines 60-62 and col. 49 lines 1-35, Chu discloses different charges to advertisers per different times frames).

Additionally, Official Notice is taken that specifying a campaign period is old and well-known to assure the ad is delivered when desired, such as starting a Christmas advertising campaign on “Black Friday” and stopping the campaign on December 24th.

Thus it would have been obvious to a PHOSITA to add, to the system of Chu, Mathai and BAIDYA, advertisers specifying a campaign period to Chu’s many listings attributes to assure the ad is delivered when desired.

Claims 5, 10, 14, 23, 24:

Chu, Mathai and BAIDYA modified as above discussed discloses a system, apparatus, or method as in claims 4, 1, 13 or 22 above and further discloses :

a geographical designation less than a state (col. 13 lines 24-32) or less than a city (col.13 lines 26-31); and

Art Unit: 3688

wherein the bidding module further comprises an amount module to receive specification of a bid amount per click-through to be paid for advertising (col. 14 lines 1-32).

Chu, Mathai and BAIDYA modified as above discussed does not disclose specifying the time, arbitrarily, or as less than a day or a week.

However, it would have been obvious to a PHOSITA to add to Chu, Mathai and BAIDYA modified with time specification by advertisers as above discussed, specifying the time, arbitrarily, or as less than a day or a week, as desired, to meet the particular ads delivery time goals.

Claims 6, 11:

Chu, Mathai and BAIDYA modified as above discussed discloses a method as in claims 4 or 1 above and Chu further discloses wherein the selection module is programmed to present advertising submitted by an advertiser other than the advertiser corresponding to the bid of highest monetary value (see e.g. col. 6 lines 62-66; col. 25 line 48 to col. 26 line 13).

Claims 7, 12:

Chu, Mathai and BAIDYA modified as above discussed discloses a method as in claims 6 or 1 above where advertisers specify geography (col. 13 lines 26-30; Figure 33 and associated text), and ad delivery timing. Chu further discloses advertisers specifying at least one criterion corresponding to the content of the comparative listing (e.g. categories, see Figure 33 and associated text; col. 13 lines 45-67). Thus it would have been obvious to a person having ordinary skill in the art at the time the invention was made (herein a “PHOSITA”) to have all 3 criteria if desired since Chu discloses advertisers inputting attributes as desired to focus targeting as desired (col. 12 line 65 to col. 13 line 8).

Art Unit: 3688

4. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chu US 7050990 in view of Mathai US 6847969 B1, Baidya US 20030046311 A1 and Official Notice and further in view of Ryan US 6421675.

Claims 17-18:

The limitations common to the independent claims discussed above are rejected on the same basis. **See discussion of claims 1-4, 13-15, 20-22 above.** The motivations to combine the references as above discussed apply here as well.

Thus Chu, Mathai, BAIDYA and Official Notice as above discussed disclose:

An article of manufacture comprising a computer readable medium storing executable and operational data structured therein, the data comprising:

an application executable on a processor to create, manage, and present an event calendar and advertising content related thereto to a user;

a database engine to store and retrieve event data corresponding to events and the event calendar presenting selected event data selected by the application;

a database storing the event data and the event calendar; a mining engine searching online publications, extracting online event data therefrom, and providing the selected event data to the database engine for inclusion in the database;

a harvester module programmed to interface with a harvester to locate, edit, and submit to the database third party event data published independently from the harvester and selected by the harvester (e.g. Chu's search engine, server 118) ;

Art Unit: 3688

an advertiser module programmed to interface with an advertiser to receive advertising content and bids for placement thereof in presentations to a user, the advertiser module including a bid module to specify timing and geography for presentation of the advertising content within a resolution selected arbitrarily by an advertiser;

a promoter module programmed to interface with a promoter corresponding to a promoted event to be referenced by the selected event data and effective to manage information submitted to the database reflecting the promoted event;

a consumer module programmed to interface with a user to provide at least a portion of the event calendar, the portion ordered according to sorting criteria and filtering criteria arbitrarily selected by a user to limit the event data presented to a user;

an API module programmed to interface between the application and the promoter and between the application and a distributor, each corresponding to the event data;

and a presentation module programmed to present to a user at least a portion of the event calendar, the advertising content,

and control buttons for navigating and editing (Chu, Figures 18, 21-36b and associated text; col. 44 lines 43-46) the portion of the event calendar arbitrarily in accordance with values of selection criteria selected by a user, and further interfacing the application and user to other links related to at least one of the event data and the advertising content (see above cited Figures) .

Neither Chu, Mathai nor BAIDYA discloses an alert engine programmed to send to a computer of a user, based upon user criteria corresponding to a user, a notification of an alerting event among the selected events and corresponding to the user criteria.

However automatic alerts to users to apprise them of new information is well-known (see e.g. Ryan US 6421675 which discloses e.g. at (col. 27 lines 38-50):

“As shown, in step 620, upon the entry of a user ID, the system can be activated passively, at various intervals or times (such as at each login to the search engine), by looking at which so keywords, profile types and search types, the users frequently looks at using the personal links table 174 of FIG. 5 (Table 6). For example, it may be that the user frequently looks at Rugby information as a "New Zealand, male" and looks at decay treatments as a "dentist". This information can be found from the automatic book marking table, previously referred to personal links table 174. If the user has not looked at these subjects for a certain length of time and there are new or highflying information sources, the user will be automatically notified of these new information sources. “)

Thus it would have been obvious to a PHOSITA add such alerts and associated software to support their functionalities as taught by Ryan to the system of Chu, Mathai and BAIDYA for the above advantage of informing of new information as taught by Ryan.

Claim 19:

Chu, Mathai, BAIDYA and Ryan disclose an article of manufacture as in claim 17 above and Chu further discloses wherein the user criteria are selected by the application based upon demographic data provided by a user (Chu, col. 7 lines 13-19) .

Response to Arguments

5. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection, presented above.

During the interview on 09/04/2008, the Applicants' representative, Mr. Pate, explained that the invention essentially consists of three parts: the event data harvesting part to create a database of events and related data (calendar data); an advertising bidding by advertisers part;

Art Unit: 3688

and a part about consumers searching for events to whom search results and advertising are presented. The claims are herein so interpreted.

The last two parts of the invention are taught by Chu in view of Mathai, with reasons to combine, as discussed above.

The first part of the claimed invention (database creation) is now more specifically claimed and is taught by BAIDYA as above discussed. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the database creation technique as taught by BAIDYA in the system of Chu and Mathai, modified as above discussed, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nakfoor US 2006/0095344 discloses method for fan lifetime management, online ticket buying, searching for events location dates (e.g. Fig 18; Fig 25 market place for events selling/buying).

Walker US 6240396 discloses conditional offers for event tickets (Fig 5a shows event table; Fig 5b shows venue table).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3688

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Khanh H. Le/
Examiner, Art Unit 3622
November 19, 2008

/James W Myhre/
Supervisory Patent Examiner, Art Unit 3688